

REMARKS

Presently pending in this application are claims 1-32. In the Office Action mailed April 17, 2003, the Examiner rejected:

1. claims 23-26 and 31-32 under 35 U.S.C. §102(e) as being anticipated by Fijolek et al. (U.S. Patent No. 6,240,464 B1), hereinafter Fijolek;

2. claims 1-7, 10-22, 27-28 and 30 under 35 U.S.C. § 103(a) as obvious over Fijolek; and

3. claim 8, 9 and 29 as obvious over Fijolek in view of Beser et al. (U.S. Patent No. 6,212,563 B1) hereinafter Beser.

The Examiner also objected to claim 26. Applicants have amended claim 26 as requested by the Examiner. With respect to the claim rejections, Applicants traverse.

In addition, the Examiner had previously determined that claims 3, 4, 8, 9, 26, 30 and 32 were allowable. However, in the present action, the Examiner has withdrawn his finding of allowability claiming that "new" grounds of rejection render the allowable claims unpatentable.

Claims 23-26 and 31-32 are not anticipated by Fijolek

The Examiner declined to respond to Applicants' previous arguments made in an Office Action Response dated April 1, 2003 claiming that "new" grounds for rejection rendered the arguments moot. However, with respect to Independent Claim 23, the Examiner has not presented any "new" grounds for rejection. Therefore, Applicants' previously made arguments still apply. Applicants respectfully request consideration of the arguments made in their previous office action response. The arguments are summarized and amplified here for the Examiner's convenience.

Independent claim 23 recites the step of "sending a temporary network address." Claim 23 also recites the step of "the network connection determining whether a connection can be made to the configuration protocol server." Applicant respectfully submits that claims 23-26 are not anticipated by Fijolek.

1 Fijolek does not teach or suggest the step of "sending a temporary network
2 address" nor the step of "the network connection determining whether a
3 connection can be made to the configuration protocol server" as recited in claim
4 23.

5 The Examiner refers to column 28, lines 41-45 as teaching the step of
6 "sending a temporary network address" as recited in claim 23. This passage
7 however describes how the DHCP reuses network host interface addresses
8 whose leases have expired. This passage is completely irrelevant to "sending a
9 temporary network address" because the DHCP is available to the CPE in the
10 cited passage. The DHCP does not assign temporary network address because
11 the network connection does not determine if it can connect to the DHCP in
12 Fijolek.

13 Furthermore, Fijolek does not teach determining if the network connection
14 can connect to the DHCP. The Examiner claims that the step of "the network
15 connection determining whether a connection can be made to the configuration
16 protocol server" is disclosed in Fijolek at step 106 in Figure 5. Step 106 in Figure
17 6 states:

18 Select one network host interface from the first
19 network device using the one or more second
20 messages and establish a virtual connection to a third
21 network.

22 Clearly, by its very terms, step 106 in the flowchart in Figure 5 is completely
23 unrelated to whether the network connection determines whether a connection
24 can be made to the configuration protocol server as recited in claim 23.

25 Independent claim 31 also recites "the network connection determining
26 whether a connection can be made to the configuration protocol server, and if
27 not, responding to the customer premises equipment by sending a temporary
28 network address to the customer premises equipment." As set forth above, this
29 step is not taught or suggested anywhere in Fijolek.

30 Anticipation requires that each and every element be taught or disclosed
31 in the cited reference. As shown above, Fijolek fails to teach at least one
32 element of independent claims 23-26, and 31-32. Therefore, claims 23-26, and

1 31-32 are not anticipated. Applicant respectfully requests that the Examiner's
2 rejections be withdrawn. Favorable reconsideration is respectfully requested.

3 **Claims 1-22, 27-30 are not obvious**

4 The Examiner has rejected claim 1-7, 10-22, 27-28 and 30 as obvious
5 over Fijolek and claims 8, 9 and 29 over Fijolek in view of Beser.

6 With respect to claim 1, the Examiner asserted that:

7 Fijolek explicitly fails to teach a temporary
8 configuration server for responding to configuration
9 messages from the customer premises equipment
10 before the network connection is capable of
11 connecting the customer premises equipment to the
12 data network. However, Fijolek teaches the
13 temporary IP address assigning to the CPE before
14 assigning to permanent addresses. (citations
15 omitted). Therefore, it would have been obvious to a
16 person of ordinary skill in the art at the time of the
17 invention was made to understand the temporary
18 address before connecting to the network for
19 controlling in communication and available to the
20 network. (SIC).
21

22 First, the Examiner's rejection is improper because it fails to show where
23 the element "temporary configuration server" is taught or suggested in the prior
24 art. The Examiner's conclusory and misleading allegation regarding what one of
25 ordinary skill in the art would have known is insufficient. The Examiner has
26 therefore failed to make a prima facie finding of obviousness as to claim 1 and all
27 claims dependent on claim 1 (claims 2-15).

28 Second, Fijolek does not teach any temporary IP addresses. In spite of
29 the various references to completely irrelevant passages in Fijolek, the Examiner
30 appears to confuse the discussion in Fijolek regarding leased IP address with
31 temporary IP addresses. Leased IP addresses are provided by the DHCP, which
32 requires a network connection between the DHCP and the customer premises
33 equipment. Temporary IP addresses as claimed in the pending claims are used
34 before the network connection is available.

1 The Examiner makes the same arguments for the remaining independent
2 claims. All recite a temporary IP address and all independent claims are
3 therefore allowable for the reasons given above.

4 Applicants respectfully request passage to allowance for all pending
5 claims.

6 **SUMMARY**

7 Applicant respectfully submits that, in view of the remarks above, the
8 present application, including claims 1-32, is now in condition for allowance and
9 solicit action to that end. If there are any matters, which may be resolved or
10 clarified through a telephone interview, the Examiner is respectfully requested to
11 contact Applicant's undersigned representative.

Respectfully submitted,

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